THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.25285 OF 2006

DATED: 5-12-2006

Between :

Kurra Gopal Rao … Petitioner

And

1. The District Collector, Nizamabad District, Nizamabad; and 3 others. … Respondents

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WRIT PETITION NO.25285 OF 2006

ORDER :

This writ petition is filed questioning the sale notice dated 2.11.2006 issued by the 3rd respondent Bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') proposing to conduct sale of 32 guntas of land situated in Sy.No.110/A, Gangaramanda village, Nizamabad District.

The impugned notice shows that the 4th respondent herein - M/s. Balaji Rice Mill, rep. By its Proprietor B. Vittal, having availed financial assistance from the 3rd respondent Bank by creating mortgage in respect of the land in question, failed to discharge the same and consequently following the procedure prescribed under the Act the land in question which is the secured asset is brought to sale. The petitioner states that he is not at all concerned with the loan transactions said to have been availed by the 4th respondent. It is stated that the 4th respondent rice mill is situated just adjacent to the petitioner's land situated in Sy.No.109/AA and the 4th respondent had unauthorisedly occupied 32 guntas of land belonging to the petitioner in Sy.No.109/AA. It is alleged that under the guise of the impugned sale notice, the petitioner's land to an extent of 32 guntas is also proposed to be sold which is arbitrary and illegal. It is pleaded that the petitioner's land situated in Sy.No.109/AA is an agricultural land which does not fall within the purview of the Act.

The learned Counsel for the petitioner across the bar stated that the alleged encroachment by the 4th respondent took place about 2 years ago and that the petitioner made complaints before the District Collector and the concerned Gram Panchayat for removal of the encroachment. It is also stated that the 3rd respondent earlier issued sale notice in the month of June 2006, however the said proceedings were dropped on the basis of the representation made by the petitioner and other villagers.

A copy of the representation said to have been made by the petitioner on 20.6.2006 to the District Collector placed before this Court shows that the petitioner was very well aware of the fact that the 4th respondent rice mill was mortgaged to the 3rd respondent Bank and the proceedings under the Act are pending. Whether the 4th respondent has encroached into the petitioner's land or not is a pure question of fact which cannot be gone into and decided by this Court in writ proceedings.

Accordingly, the Writ Petition is dismissed. However, this shall not preclude the petitioner to work out the remedy under Section 17 of the Act for redressal of his grievance. No costs.

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G. ROHINI, J.

Dt. 5-12-2006
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